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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,299	09/06/2000	Jean-Francois Moyersoem	204,797	9580

7590

12/03/2002

Abelman Frayne & Schwar  
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New York, NY 10017

EXAMINER

WASYLCHAK, STEVEN R

ART UNIT

PAPER NUMBER

3624

10

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/656,299

Applicant(s)

MOYERSON, JEAN-FRANCOIS

Examiner

Steven R. Wasylchak

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-5 and 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5 and 8 is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s). <u>10</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                 |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____.   |

**DETAILED ACTION**  
**RESPONSE TO AMENDMENT**

1. The FINAL with respect to the office action of 5/17/02 is withdrawn as per telephone conversation on 7/11/02 with Attorney David Quinlan.
2. Claims 3,4,5, and 8 are allowed.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pettit et al (US 5,551,692) and further in view of Storey (US 5,774,870).

As per claim 2,

A method of selling and purchasing at least one object of purchase over a computer network, said method comprising the following steps:

- a. Pettit teaches searching for and find a site on said computer network offering said at least one object of purchase; / col 1, L 33-54. Pettit fails to teach the features of software on a purchaser's computer.

Official notice is taken that this feature is old and well known in the e-commerce art and / or retail art, for example in the form of modified cookies to contain purchasing software. It would have been obvious to one of feature for the advantage of immediate exposure to free items and thus increase the

ordinary skill in the art at the time of applicant's invention to implement this feature to increase the possibility of sales.

- b. browsing through an on-line catalog at said site to find said at least one object of purchase, each of said at least one object of purchase having attributed to it a probability of obtaining said each of said at least one object of purchase at no cost to said purchaser; / col 1, L 33-54
- c. selecting said at least one object of purchase for purchase; / col 1, L 33-44
- d. Pettit teaches an order for said at least one object of purchase; / col 1, L 33-54.

Pettit fails to teach the feature of confirmation.

Official notice is taken that this feature is old and well known in the e-commerce art and / or retail art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of avoiding bookkeeping errors and thus keeping an accurate set of books.

- e. determining whether payment must be made for said each of said at least one object of purchase; and / col 1, L 34-54
- f. Pettit et al teaches paying for only those objects of purchase from said at least one object of purchase / col 1, L 37-54. However, Pettit does not teach a required purchase.

Official notice is taken that this feature is old and well known in the e-commerce art and / or retail art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this

feature for the advantage of increased sale revenue with a minimum purchase requirement.

-wherein said step of determining whether payment must be made for said each of said at least one object of purchase comprises the following steps:

d. Pettit et al teaches at least one object of purchase (col 2, L 32-57). Pettit fails to teach determining the number of said each of said ordered since an event selected from the group of events.

However, Storey teaches determining the number of said each of said ordered since an event selected from the group of events (abstract, fig 1, 2; col 1, L 37-46)

It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of attracting customers with a chance of winning a prize and thus increase sales by having more customers.

(i) Pettit et al teaches at least one object of purchase (col 2, L 32-57). Pettit does not teach said each of said at least one object of purchase was delivered at no cost to a prior purchaser. However, Storey teaches determining the number of said each of said ordered since an event selected from the group of events ( fig 2, 3, 4)

It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of attracting customers with a chance of winning a prize and thus increase sales by having more customers.

(ii) Pettit et al teaches at least one object of purchase (col 2, L 32-57). Pettit does not teach purchase was first offered for sale. However, Storey teaches purchase was first offered for sale (fig 2, 3, 4). It would have been obvious to one of ordinary skill in the art

to use this limitation for the advantage of attracting customers with a chance of winning a prize and thus increase sales.

e. Pettit et al teaches payment for said each of said at least one object of purchase (col 2, L 32-57). Pettit does not teach offering said each of said at least one object of purchase to said purchaser at no cost if said number is equal to predetermined value. However, Storey teaches offering said each of said at least one object of purchase to said purchaser at no cost if said number is equal to predetermined value (fig 1, 2, 3, 4; col 2, L 8-27; col 8, L 17-41; col 9, L 6-44)

It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of attracting customers with a chance of winning a prize and thus increase sales by having more customers.

f. Pettit et al teaches payment for said each of said at least one object of purchase (col 2, L 32-57). Pettit does not teach if said number is not equal to said predetermined value. However, Storey teaches said number is not equal to said predetermined value. (fig 1, 2, 3, 4; col 2, L 8-27; col 8, L 17-41; col 9, L 6-44).

It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of attracting customers with a chance of winning a prize and thus increase sales by having more customers.

This action is NON-FINAL. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. to 6:00 p.m. EST.

Art Unit: 3624

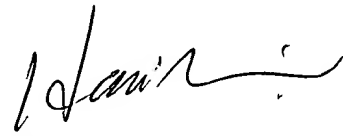
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 3624 is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Steven Wasylchak



9/ 13 /02



**HANI M. KAZIMI  
PRIMARY EXAMINER**